

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 20714 of 2003

Between:

P.Krishna, S/o.late Giddaiah, R/o.Gadwal Town, Mahaboobnagar District

..... PETITIONER

AND

1. Municipality of Gadwal, rep.by its Commissioner Gadwal, Mahaboobnagar District.

2. Smt. C. Shyamala W/o. G. Ramesh
Bheemnagar, Gadwal, Mahabubnagar

* R2 is impleaded as per Court order dt. 19.7.2004 in WPMP 4956 of 2004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction, preferably a writ in the nature of Mandamus, declaring the order in Rc.No.A/396/2003 dt.1.4.2003 as being illegal, arbitrary, violative of principles of natural justice and violative of Articles 14 and 300-A of the Constitution of India and set aside the same and consequently, suspend the said order of the respondent.

Counsel for the Petitioner:MR.P.VENUGOPAL

Counsel for the Respondent No1: GP FOR MUNICIPAL ADMINISTRATION & Sri Polesetti Radha Krishna, Standing Counsel for Municipalities.

Counsel for the Respondent No.2: MR. C.B. RAMMOHAN REDDY.

The Court made the following :

THE HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

WRIT PETITION NO.20714 OF 2003

ORDER:

After purchasing a site from the ostensible owner under a registered sale deed dated 14.02.2003 petitioner applied for mutation of his name in the municipal registers. By the order dated 17.02.2003, 1st respondent mutated the name of the petitioner in the assessment register. Thereafter 2nd respondent, claiming to be the real owner of that property, filed a petition for cancellation of the mutation made in the name of the petitioner. Without issuing notice to the petitioner on the said application, 1st respondent by the order impugned in this petition cancelled the mutation made in favour of the writ petitioner. Hence this writ petition.

2. The contention of the learned Counsel for the writ petitioner is since no opportunity of being heard was given to the petitioner before canceling the mutation made in favour of the petitioner, the order impugned is liable to be set aside. The contention of the learned counsel for the 2nd respondent is that since Alteration of Property and Assessment Rules 1966 contemplate notice being issued to the real owner, and since no notice was given to the 2nd respondent before ordering mutation in favour of the petitioner and since 2nd respondent also filed a suit for declaration of his title there are no grounds to interfere with the order impugned in this petition.

3. 1st respondent, who mutated the name of the petitioner in the assessment register in pursuance of the sale deed executed by the ostensible owner, ought to have issued a notice to the petitioner on the application filed by the 2nd respondent and ought to have given him an opportunity of being heard, following the principles of natural justice. Since 1st respondent did not issue notice to the petitioner on the application filed by the 2nd respondent to cancel the mutation made in favour of the petitioner, the impugned order dated 1.4.2003 is liable to be and hence is set aside, and the matter is remitted to the 1st respondent for disposal according to law after giving an opportunity of being heard to the petitioner on the application filed by the 2nd respondent. Since mutation does not confer title and since 2nd respondent filed a suit the Civil Court shall decide the said suit on its merits without being influenced

by this order.

The writ petition is disposed of accordingly. No costs.

31st January, 2005

Nn

Copy to:

1. The Commissioner, Gadwal Municipality,
Mahaboobnagardistrict.
2. Two C.Cs to G.P. for Municipal Administration, High
Court Buildings, High Court of A.P., Hyderabad (O.U.T)
3. Two C.D. copies.